

with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, if the Office, upon due deliberation, determines that continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association. The Notice shall remain in effect until the information, indictment, or complaint is finally disposed of or until terminated by the Office.

(b) The Office may issue and serve an Order upon a subject individual against whom a judgment of conviction, or an agreement to enter a pretrial diversion or other similar program has been rendered, where such judgment is not subject to further appellate review, and the Office, upon the deliberation, has determined that continued service or participation by the subject individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association.

#### **§ 508.4 Contents and service of the Notice or Order.**

(a) The Notice or Order shall set forth the basis and facts in support of the Office's issuance of such Notice or Order, and shall inform the subject individual of his right to a hearing, in accordance with this part, for the purpose of determining whether the Notice or Order should be continued, terminated, or otherwise modified.

(b) The Secretary shall serve a copy of the Notice or Order upon the subject individual and the related association in the manner set forth in § 509.11 of this chapter.

(c) Upon receipt of the Notice or Order, the subject individual shall immediately comply with the requirements thereof.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991]

#### **§ 508.5 Petition for hearing.**

(a) To obtain a hearing, the subject individual must file two copies of a petition with the Secretary within 30 days of being served with the Notice or Order.

(b) The petition filed under this section shall admit or deny specifically each allegation in the Notice or Order, unless the petitioner is without knowledge or information, in which case the petition shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a petitioner intends in good faith to deny only a part of or to qualify an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) The petition shall state whether the petitioner is requesting termination or modification of the Notice or Order, and shall state with particularity how the petitioner intends to show that his continued service to or participation in the conduct of the affairs of the association would not, or is not likely to, pose a threat to the interests of the association's depositors or to impair public confidence in the association.

#### **§ 508.6 Initiation of hearing.**

(a) Within 10 days of the filing of a petition for hearing, the Office shall notify the petitioner of the time and place fixed for hearing, and it shall designate one or more Office employees to serve as presiding officer.

(b) The hearing shall be scheduled to be held no later than 30 days from the date the petition was filed, unless the time is extended at the request of the petitioner.

(c) A petitioner may appear personally or through counsel, but if represented by counsel, said counsel is required to comply with § 509.6 of this chapter.

(d) A representative(s) of the Office's Office of Enforcement also may attend the hearing and participate therein as a party.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991]

#### **§ 508.7 Conduct of hearings.**

(a) Hearings provided by this section are not subject to the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 554-557). The presiding officer is, however, authorized to exercise all of the powers enumerated in § 509.5 of this chapter.